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6  
7 UNITED STATES DISTRICT COURT  
8 DISTRICT OF NEVADA

9 SUZANNE REIFSNYDER,

Case No.:

10 Plaintiff,

**COMPLAINT**

11 v.

12  
13 LINCOLN COUNTY SCHOOL DISTRICT, a  
county school district,

14 Defendant.

1. Interference with Rights within the Family Medical Leave Act ("FMLA"), 29 U.S.C. § 2601, et. seq.;
2. Violation of ADA and N.R.S. § 613.330 et. seq; and
3. Retaliation re: ADA & N.R.S. § 613.340.

**JURY DEMAND REQUESTED**

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16  
17  
18 Plaintiff, SUZANNE REIFSNYDER (hereinafter "Plaintiff or "Reifsnyder"), by and  
19 through her attorney of record, Vernon Nelson, Esq. of the Law Office of Vernon Nelson, and for  
20 her claims for relief against defendant, LINCOLN COUNTY SCHOOL DISTRICT (hereinafter  
21 "Defendant" or "the District"), complains and alleges as follows:

**JURISDICTION AND VENUE**

- 22  
23 1. This action is brought pursuant to the following:
  - 24 a. The Family Medical Leave Act ("FMLA"), 29 U.S.C. § 2601, et. seq.; and
  - 25 b. The Americans with Disabilities Act ("ADA"), 42 U.S.C. § 1201, et. seq.
- 26 2. This court has jurisdiction over this matter pursuant to 28 U.S.C. § 1331.
- 27 3. This action also arises out of claims from Nevada's anti-discrimination statutes,  
28 N.R.S. § 613.330, as well as claims arising under the common law of the State of Nevada. These

1 claims are so related to the claims in the action within the original jurisdiction of this Court that they  
2 form part of the same case or controversy under Article III of the United States Constitution. As  
3 such, these claims are properly within the Court's jurisdiction pursuant to 28 U.S.C. § 1367(a).

4 4. Venue is proper in the District of Nevada (and its unofficial Southern District),  
5 pursuant to 28 U.S.C. § 1391(b) because the unlawful employment practices were committed in and  
6 arose in the District of Nevada.

7 5. Reifsnyder timely filed her Charge of Discrimination with the Nevada Equal Rights  
8 Commission ("NERC") on May 3, 2017.

9 6. Reifsnyder's case was transferred to the Equal Employment Opportunity  
10 Commission ("EEOC").

11 7. Reifsnyder received a Right to Sue Letter less than ninety days prior to filing this  
12 Complaint.

13 8. Reifsnyder has satisfied all administrative and jurisdiction conditions precedent to  
14 filing this Complaint.

15 **THE PARTIES**

16 9. Reifsnyder was, at all relevant times, a resident of Lincoln County, Nevada.

17 10. The District was, at all relevant times, a county school district located in Nevada.

18 11. At all relevant times, the District was Reifsnyder's employer, as that phrase is defined  
19 under :

20 a. The Family Medical Leave Act ("FMLA"), 29 U.S.C. § 2601, et. seq.; and

21 b. The Americans with Disabilities Act ("ADA"), 42 U.S.C. § 1201, et. seq.

22 12. The District has over 50 employees.

23 13. As an employer with more than fifteen (15) employees, the District is required to  
24 comply with all state and federal statutes and laws prohibiting discrimination.

25 14. Reifsnyder was, generally, employed by the District as an instructional  
26 paraprofessional.

27 15. DOE Defendants I through X, inclusive, and ROE Corporations I through X,  
28 inclusive, are persons, corporations or business entities who are or which may also be responsible

1 for or who directed or assisted in the wrongful actions of the named Defendant. The true identities  
2 of the DOE and ROE defendants are unknown to Plaintiff at this time. Plaintiff therefore alleges  
3 that DOE and ROE defendants may be responsible in part for damages suffered by Plaintiff as a  
4 result of their own wrongful actions and/or of those of their agents and/or employees. Plaintiff will  
5 seek leave to amend this Complaint as soon as the true identifies of the DOE and ROE defendants  
6 are revealed to her.

7 **FACTUAL ALLEGATIONS**

8 16. Reifsnyder began her employment with the District, on or about December of 2000,  
9 as a part-time bus driver.

10 17. In or around 2004, Reifsnyder was hired as a full-time an instructional  
11 paraprofessional, at Pioche Elementary School, earning a salary of \$30,000 plus benefits.

12 18. In or around 2015, Reifsnyder was diagnosed with Multiple Sclerosis.

13 19. On or about September 17, 2015, Reifsnyder requested, in writing, reasonable  
14 accommodations based on her disability.

15 20. The District approved Reifsnyder's request on or about November 24, 2015.

16 21. On or about May, 26, 2016, Reifsnyder received a positive evaluation of her job  
17 performance.

18 22. On or about the second month of the 2016-2017 school year, the District required  
19 Reifsnyder to re-request her accommodations.

20 23. On or about September 23, 2016, Reifsnyder, again requested, in writing, reasonable  
21 accommodations based on her disability.

22 24. During this time, after the school year began, the District revised Reifsnyder's job  
23 description, a job description created in December of 2005.

24 25. The job description added a section entitled "Essential Functions."

25 26. In the Essential Functions section, the District added physical and mental/intellectual  
26 requirements, such as, "heavy exertion of force involving 10-25 pounds frequently with up to 100  
27 pounds occasionally" and "[m]ay involve negligible up to significant stand/walk/push/pull/carry."

28 ///

1           27.     After the District revised Reifsnyder's job description, on or about October 6, 2016,  
2 the District denied Reifsnyder's request for reasonable accommodations.

3           28.     Importantly, on that same day, Reifsnyder was terminated, effective October 26,  
4 2016.

5           29.     Mrs. Reifsnyder immediately filed a grievance, with NSEA Uniserv Director,  
6 Summer Kay (hereinafter "Kay"), on or about October 10, 2016.

7           30.     In her grievance, Reifsnyder requested reasonable accommodations and to be  
8 reinstated with the District.

9           31.     The District denied Reifsnyder's grievance on or about October 31, 2016 and  
10 changed her effective day of termination to November 1, 2016.

11                                   **CLAIMS FOR RELIEF**

12                                   **FIRST CLAIM FOR RELIEF**

13                   **[Interference with Rights within the Family Medical Leave Act ("FMLA"),**  
14                   **29 U.S.C. § 2601, et. seq.]**

15           32.     Plaintiff incorporates by reference each and every allegation previously made in this  
16 Complaint, as if fully set forth herein.

17           33.     29 U.S.C. § 2615(a)(1) declares it "unlawful for any employer to interfere with,  
18 restrain, or deny the existence of or the attempt to exercise" any right protected by the FMLA.

19           34.     The Family Medical Leave Act guarantees qualified employees up to 12 weeks of  
20 leave for serious health conditions they, their spouses or family members suffer.

21           35.     Reifsnyder qualified for FMLA based on the fact she had worked twelve (12) months  
22 and over 1250 hours.

23           36.     Reifsnyder was never afforded the opportunity to take FMLA leave and was never  
24 informed it was available to her to take. That is important to note because "it is the employer's  
25 responsibility to determine when FMLA leave is appropriate, to inquire as to specific facts to make  
26 that determination, and to inform the employee of his or her entitlements. *Bailey v. Southwest Gas*  
27 *Co.*, 275 F.3d 1181, 1185 (9<sup>th</sup> Cir.2002) (emphasis added).

28           ///

1           37.     Reifsnyder suffered from a “serious health condition,” defined by the FMLA, as she  
2 suffered from Multiple Sclerosis.

3           38.     Reifsnyder properly informed the District of her serious medical condition on  
4 multiple occasions.

5           39.     Despite this, the District’s Human Resources Department failed to contact  
6 Reifsnyder or her treating physicians to determine if FMLA was appropriate.

7           40.     DOL regulations state that “[t]he employee need not expressly assert rights under the  
8 FMLA or even mention the FMLA, but may only state that leave is needed.” 29 C.F.R. §  
9 825.302(c).” *Xin Liu v. Amway Corp.*, 347 F.3d 1125, 1134-35 (9th Cir. 2003)(internal citations  
10 included).

11           41.     Even if Reifsnyder did not request FMLA leave, due to the circumstances of her  
12 serious medical condition, the District was aware that leave was needed for Reifsnyder’s treatment  
13 and recovery.

14           42.     An employer’s good faith or lack of knowledge that its conduct violates FMLA does  
15 not protect it from liability. *Bachelder v. America West Airlines*, 259 F.3d 1112, 1130 (9<sup>th</sup> Cir. 2001).

16           43.     The District was responsible for properly identifying Reifsnyder’s FMLA leave. *Liu*,  
17 347 F.3d at 1135.

18           44.     The District interfered with Reifsnyder’s rights under the FMLA.

19           45.     In *Liu*, the Ninth Circuit held: A violation of the FMLA simply requires that the  
20 employer deny the employee’s entitlement to FMLA leave. 29 C.F.R. § 825.220(a)(1) & (b). The  
21 employer here failed in its responsibility to assess Liu’s entitlement to FMLA leave and therefore  
22 denied her a substantive right under FMLA. Denial of Liu’s right to FMLA leave constitutes a  
23 violation of the FMLA. FMLA enforcement mechanisms protect employees against having to plead  
24 and negotiate with their supervisors to be granted leave they are entitled to receive under both FMLA  
25 and CFRA. We reverse the District court on this issue. *Liu*, 347 F.3d at 1136-37 (emphasis added).

26           46.     The District’s failure to properly assess Reifsnyder’s rights under FMLA, despite  
27 their knowledge of her serious medical condition, constituted FMLA interference and shows the  
28 District had a complete disregard for Reifsnyder’s FMLA rights.





64. The District's actions were retaliatory and contrary to Nevada public policy.

66. The District's actions were malicious, oppressive, fraudulent or done with reckless indifference to Reifsnyder's rights, thus justifying an award of punitive damages.

## **PRAYER FOR RELIEF**

1. For a trial by jury;
2. For compensatory and punitive damages;
3. Prejudgment interest;
4. Reasonable attorneys' fees and costs; and
5. Such other relief the Court deems just.

Pursuant to Fed. R. Civ. P. 38, 42 U.S.C. § 1981a(c)(1), and the Seventh Amendment to the United States Constitution, Reifsnnyder hereby demands a jury trial.

THE LAW OFFICE OF VERNON NELSON